IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 18086 and 18088 of 2006

DATED: 26.12.2006

Between:

W.P.No.18086 of 2006

Padala Nukaraju. …Petitioner

And

Sankavaram Primary Agricultural Cooperative
Credit Society Ltd., 3822, Sankavaram, sankavaram,
Mandal, E.G. District, rep by its Secretary & ors ...Respondents

W.P.No.18088 of 2006

A.Govindeswara Rao. …Petitioner

And

Sankavaram Primary Agricultural Cooperative
Credit Society Ltd., 3822, Sankavaram, sankavaram,
Mandal, E.G. District, rep by its Secretary & ors ...Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO : 18086 and 18088 of 2006

ORAL ORDER:

These writ petitions are filed questioning the proceedings Endt. No.N.Dist. D/221/2006 and Endt. No.N.Dist. D/222/2006, dated 31.1.2006 of the 4th respondent/ Labour Officer, Kakinada, East Godavari District and for consequential direction to the 4th respondent/Labour Officer to entertain the applications filed against the respondents 1 to 3 questioning the order of the retrenchment of the petitioner under the provisions of A.P. Shops and Establishments Act.

The petitioners who were working as Clerks in the respondent society were terminated by orders dated 25.2.2003. Questioning the said termination order, they filed applications under Section 50 of the A.P. Shops and Establishments Act before the 4th respondent-Labour Officer. The 4th respondent by the impugned proceedings in dated 31-1-2006 has returned the applications filed by the petitioners on the ground that as per the instructions of the Commissioner of Labour, Andhra Pradesh, Hyderabad vide memo No.11/19833/05, dt.24-11-2005, the A.P. Shops and Establishments Act, 1988 is not applicable to the Primary Agricultural Cooperative Societies. Hence, the present writ petitions.

The issue involved in these writ petitions is "*whether the clerks of the society are entitled to invoke the provisions of Shops and*

Establishment Act for the relief of terminal and other benefits during their course of employment before the authority".

Though counter affidavit is filed denying the writ affidavit averments, when the matter came up for hearing, the learned Government Pleader for Labour appearing for the respondents submitted that as per the judgment of the this Court in ***A.Subramanyam Naidu and Others v. Government of Andhra Pradesh*** [1] the petitioners come within the meaning of employees as defined under the A.P. Shops and Establishments Act, 1988 and the appropriate remedy for the petitioners is only to file applications under A.P. Shops and Establishments Act, 1988. He fairly conceded that the Labour Officer has erred in returning the applications.

Heard learned counsel for petitioners and learned Government Pleader for Labour. Both counsel agreed for disposal of the writ petition at the admission stage.

This court in ***A.Subramanyam Naidu and Others*** at para 34 of the Judgment held as follows:

> "…The definition of workmen under Industrial Disputes Act, 1947 under section 2 (s) means, the persons employed in a supervisory capacity drawing wages exceeding one thousand, six hundred rupees per month and the persons employed in a managerial or administrative capacity are excluded within the definition of the workmen. But, as per the definition of Section 2 (8) of A.P. Shops and Establishments Act, every staff of Industrial Establishment also comes within the purview of the employee. Therefore, even the Paid Secretaries who are the chief executives of the Primary Agricultural Co-operative Societies comes within the meaning of employees as defined under the A.P. Shops and Establishments Act, 1988."

From the above judgment it is clear that the petitioners being the employees of the 1st respondent/society come within the meaning of employees as defined under the A.P. Shops and Establishments Act, 1988 and the applications filed by them under Section 50 of

A.P.S.E Act before the 4th respondent/Labour Officer, Kakinada are maintainable. Hence, the impugned order dated 31.1.2006 returning the applications of the petitioners is liable to be set aside and accordingly set aside. The

4th respondent/Labour Officer is directed to receive the applications and consider the same in accordance with law.

The writ petitions are accordingly allowed. No costs.

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(N.V.RAMANA,J)

DATE: 26.12.2006
Grk/TVK

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[1] 2000 (5) ALD 682